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10/840,113

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Christopher N. Nagle

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Christopher N. Nagle
1750 B. Costner Dr.
Warrington, PA 18976

12/27/2007

EXAMINER

WILHELM, TIMOTHY

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

12/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/840,113

Applicant(s)

NAGLE, CHRISTOPHER N.

Examiner

Timothy D. Wilhelm

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 35-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 30-34 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-34 in the reply filed on 7/10/2007 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 25 recites the limitation "said universal brackets" in the vehicle frame. There is insufficient antecedent basis for this limitation in the claim. Claim 25 depends on claim 24, which depends upon claim 23, which then depends upon claim 5. The universal bracket to which claim 25 refers is not disclosed until claim 7, a claim that has no bearing on claim 25. Therefore, in this particular claim dependency, there is no antecedent basis to support claim 25's said universal brackets.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Buell (4,776,423). Buell discloses a frame for a motorized vehicle comprising a steering neck tube 12; a support for the engine block which is formed by a left and right subframes extending rearward and longitudinally of said steering neck tube 12 and on respective sides of said steering neck tube 12, then extending inward to form a continuous rear frame member; each of said left and right subframes having a downtube section that is affixed to said steering neck tube and which then extends outward, downward, and rearward from said head tube; each of said left and right subframes having a horizontal section adjacent to the rearward end of said downtube section, each said horizontal section extending rearward and longitudinally; and each of said left and right subframes having a tail section adjacent to the rearward end of said horizontal sections, each said tail section having a portion extending upward and rearward of said horizontal section.
7. Claims 1, 14, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al (4,630,699). Yamada discloses a motorcycle comprising a left subframe, a right subframe, a rear frame member, an engine, a transmission longitudinally rearward and adjacent to said transmission, a drive shaft 151, and a differential 17 disposed between two wheels. This type configuration is a common configuration among motorized vehicles and motorcycles.
8. Claims 1-6, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bourget (5,975,230). Bourget discloses a motorcycle comprising a left subframe 20,

a right subframe 20, a rear frame member 18, an engine 22, a transmission 24, a fuel tank 26, and a seat 28 disposed rearward of said engine 22, wherein a seating surface of said seat 28 is disposed below a cam shaft cover of said engine, wherein the frame members are made of a plurality of tubes having the same sized cross-sections, and wherein the engine 22 is mounted on horizontal tube members of the subframes.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-10, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget in view of Boncela (4,134,364). Bourget discloses the present invention except for a universal bracket attached to the tube members of the motorcycle's frame structure. Boncela teaches a universal bracket 12 for a wheeled vehicle capable of being movably affixed to the frame of said vehicle, said universal bracket having two parts 16,18, each part having at least one void 20 the size and shape of a fraction of the cross-section of a frame tube of the wheeled vehicle, each part also having at least one co-linear hole which allow said parts to be affixed together, said universal bracket having at least one mounting hole for mounting accessories to said universal bracket. With regard to claims 8 and 9, each void 20 could be construed as being one void equivalent to half the size of the cross-section of the frame tube or

made up of two voids each the size of one quarter of the cross-section of the frame tube. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorized vehicle of Bourget with the teaching of Boncela's mounting bracket to provide a simplified means of mounting an accessory to a frame tube of a motorized vehicle.

11. Regarding Boncela's applicability to claims, which claim different specific parts being mounted on the frame tubes of a motorized vehicle via the present invention, Boncela teaches mounting an accessory or part, albeit a dog leash, to a wheeled vehicle using a universal bracket, and though Boncela does not specifically disclose mounting, for instance, an engine, a seat, or a fuel tank, to a wheeled vehicle using the universal bracket, it would have been obvious to one of ordinary skill in the art to have applied the teaching of the structure of Boncela's universal bracket to attach any many of part or accessory to a frame tube of a motorized vehicle to reduce cost of materials in the vehicle.

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget and Boncela as applied to claims 7-10, and 18-22 above, and further in view of Warne (5,284,221). Bourget and Boncela disclose the present invention except for the engine being a V-8 engine. Warne teaches a motorcycle having a V-8 engine. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle of Bourget and Boncela with the teaching of Warne's V-8 engine to give the motorcycle a bigger kick.

13. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget, Boncela, and Warne as applied to claim 23 above, and further in view of Adachi et al (6,695,089). Bourget, Boncela, and Warne disclose the present invention except for the motorcycle having a radiator. Adachi et al teach mounting a radiator to a motorcycle via a bracket. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle of Bourget, Boncela, and Warne with the teaching of Adachi et al by attaching a radiator to the motorcycle frame via the universal bracket to keep the engine cool.

14. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget, Boncela, Warne, and Adachi et al as applied to claim 24 above, and further in view of Greene (6,793,031). Bourget, Boncela, Warne, and Adachi et al disclose the present invention except for coolant flowing through at least one frame tube for use in a radiator system. Greene teaches a motorcycle frame comprising a plurality of tubes 42 in which hydraulic lines 46 and the like run between different parts of the motorcycle. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle assembly of Bourget, Boncela, Warne, and Adachi et al with Greene's teaching of putting fluid lines in the frame tubes to reduce the amount of exposed hydraulic lines and the like in the motorcycle.

15. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget, Boncela, and Warne as applied to claim 23 above, and further in view of Ando et al (4,618,019). Bourget, Boncela, and Warne disclose the present invention except for the motorcycle having an alternator. Ando et al teaches a motorcycle having an alternator.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle of Bourget, Boncela, and Warne with the teaching of Ando et al's alternator to supply the motorcycle with replenishable energy.

16. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget and Boncela as applied to claims 7-10, and 18-22 above, and further in view of Brown et al (6,315,072). Bourget and Boncela disclose the present invention except for attaching footpegs or footboards to the motorcycle frame via brackets.

Brown et al disclose a motorcycle comprising a frame made up of a plurality of tubes wherein a pair of footpegs or footboards 77 is attached to said frame through use of a mounting bracket 74. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle assembly of Bourget and Boncela with the teaching of Brown et al by using the universal bracket of Bourget and Boncela to attach footpegs or footboards to a motorcycle frame to give the motorcycle's rider a comfortable place to rest his or her feet.

17. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget, Boncela, and Brown et al as applied to claims 11 and 13 above, and further in view of Dennert et al (2003/0222425). Bourget, Boncela, and Brown et al disclose the present invention except for a brake pedal being attached to the footpeg. Dennert et al teach that it is obvious to attach a brake to a footpeg. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle assembly of Bourget, Boncela, and Brown et al, with the teaching Dennert et al's brake attached to a footpeg to make the brake more easily accessible.

18. Claims 7-10,18-22, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget in view of Hundley (6,209,687). Bourget discloses the present invention except for the motor cycle having a hydraulic brake system with a master cylinder wherein the master cylinder, along with other vehicle parts or accessories, is attached to the frame of the motorcycle by a universal bracket. Hundley teaches a motorcycle comprising a hydraulic brake system having a master cylinder 12, wherein the master cylinder is attached to a frame tube member of the motorcycle via a universal bracket 16, said bracket comprising two parts 16A,16B, each part having at least one void the size and shape of a fraction of the cross-section of a frame tube of the motorcycle, each part also having at least one co-linear hole 16AA,16BA which allow said parts to be affixed together, said universal bracket 16 having at least one mounting hole for mounting accessories to said universal bracket. With regard to claim 31, though Hundley does not disclose the master cylinder as having the same cross-sectional area as that of a frame tube, the size of the cross-section of a part of the invention is a mere matter of design choice and thus does not merit any patentable weight towards the novelty of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle frame of Bourget with the teaching of Hundley's master cylinder and universal bracket system to more easily attach a master cylinder, or other parts such as an engine, to a motorcycle and do so in a more cost efficient and customizable manner.

19. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourget and Hundley as applied to claims 7-10,18-22, and 30-32 above, and

further in view of Greene (6,793,031). Bourget and Hundley disclose the present invention except for brake fluid flowing through at least one frame tube for use in a hydraulic brake system. Greene teaches a motorcycle frame comprising a plurality of tubes 42 in which hydraulic lines 46 and the like run between different parts of the motorcycle. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the motorcycle assembly of Bourget and Hundley with Greene's teaching of putting hydraulic lines in the frame tubes to reduce the amount of exposed hydraulic lines and the like in the motorcycle.

Allowable Subject Matter

20. Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

Application/Control Number:
10/840,113
Art Unit: 3616

Page 10

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Timothy D Wilhelm
Examiner
Art Unit 3616

TDW


SAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER